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15 UNITED STATES DISTRICT COURT
16 CENTRAL DISTRICT OF CALIFORNIA

17 Karine Grigorian, *on behalf of herself*)
18 *and all others similarly situated,*)

19 Plaintiff,)

20 vs.)

21 Daniel Madariaga d/b/a Contempo
22 Realtors,)

23 Defendant.)

) Case No.

) **CLASS ACTION COMPLAINT**

) **JURY TRIAL DEMANDED**

Nature of this Action

1
2 1. Karine Grigorian (“Plaintiff”), individually and on behalf of all others
3 similarly situated, brings this class action against Daniel Madariaga d/b/a
4 Contempo Realtors (“Defendant”) under the Telephone Consumer Protection Act
5 (“TCPA”).

6 2. Upon information and good faith belief, Defendant routinely violates
7 47 U.S.C. § 227(b)(1)(A)(iii) by using an artificial or prerecorded voice to place
8 non-emergency calls to telephone numbers assigned to a cellular telephone service
9 without prior express consent, in that Defendant places autodialed and prerecorded
10 or artificial voice calls to wrong or reassigned cellular telephone numbers.

11 3. Specifically, Defendant routinely delivers prerecorded video
12 messages (containing prerecorded voice messaging) to accompany text messages
13 to suspected homeowners in an effort to either purchase their property or gauge
14 their interest in Defendant’s real estate services.

Parties

15
16 4. Plaintiff is a natural person who at all relevant times resided in
17 Pasadena, California.

18 5. Defendant is a real estate business headquartered in Burbank,
19 California.¹

Jurisdiction and Venue

20
21 6. This Court has subject matter jurisdiction under 47 U.S.C. §
22 227(b)(1)(a)(iii), and 28 U.S.C. § 1331.

23 7. Venue is proper before this Court under 28 U.S.C. § 1391(b)(1) as
24

25 ¹ Defendant’s website identifies “Contempo Realtors, LLC” as the entity
26 responsible for Defendant’s website; however, “Contempo Realtors, LLC” does
27 not exist as a registered business entity. See
28 <https://www.contemporealtors.com/privacy-policy> (last visited September 26,
2023). Furthermore, according to the Los Angeles County Registrar-
Recorder/County Clerk, Defendant is a registered fictitious business name.

1 both Plaintiff and Defendant are based in this district and a significant portion of
2 the events giving rise to this action occurred in this district.

3 8. In particular, Defendant directed its solicitation calls to Plaintiff's
4 telephone in this district, and Plaintiff received Defendant's solicitation calls in this
5 district.

6 **Factual Allegations**

7 9. Plaintiff is, and has been at all times relevant to this action, the regular
8 and sole user of her cellular telephone number—(818) 987-XXXX.

9 10. Beginning in August of 2023, and continuing through the present on
10 an intermittent basis, Plaintiff received over ten text messages, along with over ten
11 corresponding prerecorded video messages to her cellular telephone from (818)
12 423-4891.

13 11. Each of these prerecorded video messages directly sent to Plaintiff
14 featured audible telemarketing messages touting Defendant's real estate service.

15 12. Samples of each of these messages can be found HERE.

16 13. Plaintiff did not request any services discussed in the subject video
17 messages or corresponding text messages.

18 14. Plaintiff is not, and was not, interested in selling her home, and did
19 not even own the home that was the subject of Defendant's text messages.

20 15. Plaintiff is not, and was not, interested in Defendant's services or
21 marketing.

22 16. Plaintiff did not give Defendant prior express consent to place calls to
23 her cellular telephone number by using an artificial or prerecorded voice.

24 17. Upon information and belief, and in light of the nature and character
25 of the video messages at issue, as well as the nature and character of the delivery
26 of repeated identical video messages, Defendant used a prerecorded voice to
27 deliver calls to Plaintiff's cellular telephone number.

28 18. Upon information and belief, Defendant placed its calls to Plaintiff's

1 cellular telephone number for non-emergency purposes.

2 19. Upon information and belief, Defendant placed its calls to Plaintiff's
3 cellular telephone number voluntarily.

4 20. Upon information and belief, Defendant placed its calls to Plaintiff's
5 cellular telephone number under its own free will.

6 21. Upon information and belief, Defendant had knowledge that it was
7 using an artificial or prerecorded voice to place its calls to Plaintiff's cellular
8 telephone number.

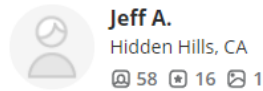
9 22. Upon information and belief, Defendant intended to use an artificial
10 or prerecorded voice to place its calls to Plaintiff's cellular telephone number.

11 23. The purpose of the solicitation calls at issue was to advertise and to
12 market Defendant's business or services.

13 24. Plaintiff suffered actual harm as a result of the calls at issue in that
14 she suffered an invasion of privacy, an intrusion into her life, and a private
15 nuisance.

16 25. In fact, several other consumers have previously complained about
17 materially identical conduct from Defendant, which Defendant does not deny:

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24 **(Remainder of Page Intentionally Left Blank)**
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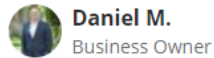
2/5/2020

Another harassing realtor claiming to have a buyer for my home that is not even on the market. He sends an address to a home he recently sold that is not even near my home and wants to show my house to all of the buyers he claims to be representing. Try a new a new marketing approach if you want business and stop contacting me.

Useful 2

Funny

Cool



2/6/2020

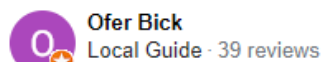
When I have a home for sale in a certain area, I get to meet a lot of potential home buyers. They make appointments to see my listing, they come to my open houses, and they reach out to me on social media with questions about my listing. If my listing doesn't end up working for them I ask the buyer what it is they are looking for in a home. They tell me their property needs and I go out and try my best to find a home that will work for them. Since the housing inventory is tight, I show the buyer both on and off-market properties. For off-market properties, I reach out to homeowners who are not officially on the market and ask them if they are willing to sell. Jeff, I noticed your home was recently on the market, and you failed to sell your property. Since one of the buyers I met at my open house in West Hills was looking for a home like yours, and your property is also in West Hills, I thought I would give it a shot and see if you are still interested in selling. I'm not "claiming" to have a buyer, I actually have a buyer. In fact, from that one open house, I generated 24 buyers looking to buy in West Hills. Again, since your property is also in West Hills, I was trying to match you up with some of my buyers. I understand you are frustrated because you failed to sell your home, but this is not just a marketing approach, it's how I sell off-market properties on a consistent basis. Good luck with the sale of your home.

Contempo Realtors

300 E Alameda Ave, Burbank, CA

[Write a review](#)

4.3 ★★★★★ 6 reviews ⓘ



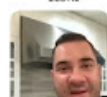
2 years ago

Critical: Professionalism, Quality

Daniel from Contempo just texted me, asking "is now is a good time to take a tour of your house." My house is not for sale, I do not know Daniel, have never contacted him, never solicited his services, and have no idea where he got my phone number. It is simply his sales technique, sleazy and unprofessional, pretending that we know each other when we don't, and that my house is for sale when it isn't, and hoping to get a listing from me. Watch out for this Contempo Realtors salesman, who shouldn't even be allowed to carry a license to sell used cars.

Get more information about this report
(818) 740-5114 is not spam

Not spam



1

Class Action Allegations

26. Plaintiff brings this action under Federal Rule of Civil Procedure 23, and as a representative of the following class (the “Class”):

All persons and entities throughout the United States (1) to whom Contempo Realtors delivered, or caused to be delivered, a text message (2) directed to a number assigned to a cellular telephone service, (3) which included or attached a video message that contained an artificial or prerecorded voice, (4) within four years preceding the date of this complaint through the date of class certification.

27. Excluded from the Class is Defendant, Defendant’s officers and directors, members of their immediate families and their legal representatives, heirs, successors, or assigns, and any entity in which Defendant has or had a controlling interest.

28. Upon information and belief, the members of the Class are so numerous that joinder of all of them is impracticable.

29. The exact number of members of the Class is unknown to Plaintiff at this time, and can be determined only through appropriate discovery.

30. The members of the Class are ascertainable because the Class is defined by reference to objective criteria.

31. In addition, the members of the Class are identifiable in that, upon information and belief, their telephone numbers, names, and addresses can be identified in business records maintained by Defendant, and by third parties, including members of the Class.

32. Plaintiff’s claims are typical of the claims of the members of the Class.

33. As it did for all members of the Class, Defendant used an artificial or prerecorded voice in the video messages accompanying the text messages Defendant delivered to Plaintiff’s cellular telephone number.

34. Plaintiff’s claims, and the claims of the members of the Class,

originate from the same conduct, practice, and procedure on the part of Defendant.

35. Plaintiff's claims are based on the same theories as are the claims of the members of the Class.

36. Plaintiff suffered the same injuries as the members of the Class.

37. Plaintiff will fairly and adequately protect the interests of the members of the Class.

38. Plaintiff's interests in this matter are not directly or irrevocably antagonistic to the interests of the members of the Class.

39. Plaintiff will vigorously pursue the claims of the members of the Class.

40. Plaintiff has retained counsel experienced and competent in class action litigation.

41. Plaintiff's counsel will vigorously pursue this matter.

42. Plaintiff's counsel will assert, protect, and otherwise represent the members of the Class.

43. The questions of law and fact common to the members of the Class predominate over questions that may affect individual members of the Class.

44. Issues of law and fact common to all members of the Class include:

- a. Defendant's use of an artificial or prerecorded voice in the video messages it delivers to cellular telephone numbers;
- b. Defendant's conduct, pattern, and practice as it pertains to delivering advertisement and telemarketing solicitation messages;
- c. Defendant's violations of the TCPA; and
- d. The availability of statutory penalties.

45. A class action is superior to all other available methods for the fair and efficient adjudication of this matter.

46. If brought and prosecuted individually, the claims of the members of

1 the Class would require proof of the same material and substantive facts.

2 47. The pursuit of separate actions by individual members of the Class
3 would, as a practical matter, be dispositive of the interests of other members of the
4 Class, and could substantially impair or impede their ability to protect their
5 interests.

6 48. The pursuit of separate actions by individual members of the Class
7 could create a risk of inconsistent or varying adjudications, which might establish
8 incompatible standards of conduct for Defendant.

9 49. These varying adjudications and incompatible standards of conduct,
10 in connection with presentation of the same essential facts, proof, and legal
11 theories, could also create and allow the existence of inconsistent and incompatible
12 rights within the Class.

13 50. The damages suffered by the individual member of the Class may be
14 relatively small, thus, the expense and burden to litigate each of their claims
15 individually make it difficult for the members of the Class to redress the wrongs
16 done to them.

17 51. The pursuit of Plaintiff's claims, and the claims of the members of the
18 Class, in one forum will achieve efficiency and promote judicial economy.

19 52. There will be no extraordinary difficulty in the management of this
20 action as a class action.

21 53. Defendant acted or refused to act on grounds generally applicable to
22 the members of the Class, making final declaratory or injunctive relief appropriate.

23 **Count I**

24 **Violation of 47 U.S.C. § 227(b)(1)(A)(iii)**

25 **On behalf of the Class**

26 54. Plaintiff repeats and re-alleges each and every factual allegation
27 contained in paragraphs 1-53.

28 55. A text message is a "call" as defined by the TCPA. *See, e.g.,*

1 *Satterfield v. Simon & Schuster, Inc.*, 569 F.3d 946, 954 (9th Cir. 2009).

2 56. Defendant violated 47 U.S.C. § 227(b)(1)(A)(iii) by delivering
3 artificial or prerecorded voice messages as part of the video messages
4 corresponding with the text messages it sent to Plaintiff's cellular telephone
5 number, without prior express consent.

6 57. As a result of Defendant's violations of 47 U.S.C. § 227(b)(1)(A)(iii),
7 Plaintiff, and the members of the Class, are entitled to damages in an amount to be
8 proven at trial.

9 **Prayer for Relief**

10 WHEREFORE, Plaintiff prays for relief and judgment, as follows:

- 11 a. Determining that this action is a proper class action;
- 12 b. Designating Plaintiff as a class representative of the proposed
13 Class under Federal Rule of Civil Procedure 23;
- 14 c. Designating Plaintiff's counsel as class counsel under Federal
15 Rule of Civil Procedure 23;
- 16 d. Adjudging and declaring that Defendant violated 47 U.S.C. §
17 227(b)(1)(A)(iii);
- 18 e. Enjoining Defendant from continuing their violative behavior,
19 including delivering text messages with video messaging to
20 consumers without prior express consent;
- 21 f. Awarding Plaintiff and the members of the Class damages
22 under 47 U.S.C. § 227(b)(3)(B);
- 23 g. Awarding Plaintiff and the members of the Class treble
24 damages under 47 U.S.C. § 227(b)(3)(C);
- 25 h. Awarding Plaintiff and the members of the Class reasonable
26 attorneys' fees, costs, and expenses under Rule 23 of the
27 Federal Rules of Civil Procedure;
- 28 i. Awarding Plaintiff and the members of the Class any pre-

1 judgment and post-judgment interest as may be allowed under
2 the law; and

3 j. Awarding such other and further relief as the Court may deem
4 just and proper.

5 **TRIAL BY JURY**

6 Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff
7 demands a trial by jury on all issues so triable.

8 Date: October 2, 2023

By: /s/ Michael S. Morrison

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